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PROJECT NO. 52373

REVIEW OF WHOLESALE ELECTRIC MARKET DESIGN	**§ §**	**PUBLIC UTILITY COMMISSION OF TEXAS**

TEXAS PUBLIC POWER ASSOCIATION'S RESPONSE TO STAFF'S QUESTIONS FOR COMMENT

The Texas Public Power Association (TPPA) appreciates the opportunity to respond to the questions for comment proposed by the Public Utility Commission of Texas (Commission) regarding its ongoing work to redesign the market in the wake of Winter Storm Uri. These comments are submitted on behalf of TPPA and do not necessarily reflect the opinions of any individual TPPA member.

Formed in 1978, TPPA is the statewide association for the 72 municipally-owned utilities (MOUs) in Texas. TPPA members serve urban, suburban, and rural Texas and vary in size from large, vertically-integrated utilities to relatively small distribution-only systems. We are proud to serve approximately 5.1 million Texans across the state. Sixty-three of our members operate within the Electric Reliability Council of Texas (ERCOT) region[1] and nine are located within either the Southwest Power Pool (SPP) or Midcontinent Independent System Operator (MISO) region. MOUs offer a long track record of stability, and we serve an essential role in providing secure and reliable power to the wholesale electricity markets in these regions, including ERCOT. Many of our member systems have been providing stable and reliable electric power to communities in Texas for over 100 years, and collectively, our members provide more than 10,500 MW of generation and maintain nearly 3,000 miles of high-voltage transmission assets.

On Monday, October 25, 2021, Commission Staff filed its list of questions for comment, requesting responses by noon the following Monday, November 1. TPPA worked to finalize these comments by this deadline, but TPPA reserves the right to supplement these comments as circumstances warrant.

[1] 70% of Lubbock Power and Light's customers were moved to the ERCOT region on May 29 and 30, 2021. The remainder will be transitioned from SPP in 2023.

I. Public Power's Role in the Evolving ERCOT Market

TPPA believes that the Commission's market redesign efforts should focus on two broad goals – 1) the Commission should remedy operational issues that led to the failures during Winter Storm Uri, and 2) the Commission should maintain ERCOT's fundamental market-based focus while implementing needed forward-looking reforms. For both of these goals, MOUs look forward to playing a key role.

MOUs have diligently worked to further weatherize important facilities and have upgraded and revised communication and operational tools to prepare for the upcoming winter season. In addition, MOUs have identified additional critical loads as part of the ongoing effort to increase coordination between electric utility providers, the oil and gas industry, and water and wastewater utilities.

MOUs have also established some of the highest credit ratings in the industry, with many MOUs receiving credit ratings ranging from A- to AA, even immediately after Winter Storm Uri downgrades due to debts and regulatory uncertainty. These credit ratings will be essential to ensure that the grid has sufficient electric generation. Fundamentally, MOUs serve as the backbone for ERCOT's investment outlook, as our high credit ratings bolster the credit quality of the entire ERCOT marketplace, making ERCOT a more attractive investment opportunity.

Additional regulatory risk, particularly market redesign concepts that disproportionately affect MOUs, may diminish or harm investment opportunities in ERCOT, which will hinder, if not prevent, the construction of additional new dispatchable generation.

II. Operating Reserve Demand Curve

The Commission has already indicated a preference for reducing the high system-wide offer cap (HCAP).[2] The Value of Lost Load (VOLL), which is a critical component in calculating the Operating Reserve Demand Curve (ORDC), is tied to the HCAP via Commission rule, and as noted in TPPA's comments in that rulemaking, TPPA generally supports the reduction of the HCAP. At this time, TPPA does not take a position on whether the VOLL should be decoupled from HCAP.

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[2] *See Review of the ERCOT Scarcity Pricing Mechanism*, Project 52631, Proposal for Publication of Amendments to §25.505 as Approved at the October 7, 2021 Open Meeting (Oct. 8, 2021).

In discussions during Commission work sessions, the Commission has also indicated a preference for lengthening the ORDC, resulting in the adder applying earlier in scarcity conditions. To accomplish that lengthening, TPPA would support modifying the "blended curve" to four separate seasonal curves. Separate seasonal curves would allow the Commission to lengthen the curve based on load projections, which better allows the Commission to appropriately value reserves in differing seasons. Rather than terms of equal length, TPPA would recommend mirroring the recently-adopted ERS procurement terms – December through March, April and May, June through September, and October and November.[3] At this time, TPPA does not take a position on whether the original six time blocks of the ORDC should also be reinstated.

As noted below, while TPPA understands that the Commission intends to change the way ORDC is calculated, TPPA recommends that the Commission ensure that the resultant cost to consumers and the reliability risk reduction are understood as much as possible to ensure that the changes that the Commission implements are a cost-effective way of increasing overall grid reliability.

III. Load Serving Entity Obligation

Under the Load Serving Entity (LSE) Obligation proposal,[4] ERCOT would calculate whether there are sufficient generation resources (after reductions via an ERCOT accreditation process) to meet projected demand, including a seasonal reserve margin. If there is a deficit, the Commission would then initiate a process under which each LSE would be required to demonstrate that it has contracted for sufficient generation to meet their projected non-interruptible load during peak hours. If an LSE cannot meet this standard, ERCOT would charge a penalty that would be used to acquire generation to cover this amount.[5]

During the Commission's October 21 work session on market design, the Commissioners discussed multiple tweaks to this proposal, including several major changes (including removing the trigger provision and requiring ERCOT to maintain a bulletin board of credit transactions). At

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[3] *See* ERCOT Nodal Protocols § 3.14.3.1, as amended by NPRR984.

[4] *See Review of Wholesale Market Design*, Project 52373, A proposal for a wholesale electric market design reform for ERCOT in response to the provisions of SB3 calling for "requirements to meet the reliability needs of the power region." (Sept. 30, 2021) ("LSE Obligation Proposal").

[5] ERCOT has a similar process already in effect for ancillary services – a Qualified Scheduling Entity (QSE) may self-arrange ancillary services, either by providing them itself or contracting with another QSE to do so. If a QSE fails to self-arrange the full amount, ERCOT will then procure sufficient ancillary services for the QSE and will charge the QSE for the cost of doing so.

this stage, with several different possible variants of the LSE Obligation proposal, it is difficult for TPPA to provide detailed feedback on how the proposal would affect MOUs. Below, TPPA offers the following broad comments that should apply to all versions discussed.

First, implementing the LSE Obligation would appear to require that ERCOT calculate load hedging on an LSE-by-LSE basis. As ERCOT recently testified in a different docket, ERCOT, at present, does not directly communicate with LSEs and "only transacts/settles with market participants registered with ERCOT as a QSE or a Congestion Revenue Rights ("CRR") account holder. A QSE representing a Resource Entity or LSE is responsible for communicating with ERCOT on behalf of the Resource Entity or LSE. The QSE is also responsible for settling payments and charges with ERCOT on behalf of its LSEs and Resource Entities."[6] The LSE Obligation proposal poses a massive operational change to ERCOT's interactions with market participants by seemingly requiring ERCOT to directly interface with LSEs. Implementation of such a change could face significant delays as ERCOT balances this work with implementing two securitization-related debt obligation orders, an upgrade to ERCOT's Energy Management System, Real-Time Co-Optimization, multiple new ancillary services (including Fast Frequency Response and ERCOT Contingency Reserve Service), and various post-Winter Storm Uri reforms. It is also unclear at this time how much the LSE Obligation would cost with regard to the degree of added resources needed to ensure implementation is completed with minimal disruption to the market and market participants.

Second, the LSE Obligation poses a great deal of risk for market power abuse. Unfortunately, the original proposal devotes a mere six sentences, roughly a third of a single page in a 44-page proposal, to this issue. At present, the Commission disallows physical withholding (increasing prices through the strategic use of unit deratings and forced outages), while still allowing some degree of economic withholding (i.e., not providing when prices do not meet or exceed the cost of generation, so long as the offers do not substantially exceed marginal cost).[7] Whether a generation resource is unlawfully engaging in economic withholding has always been a difficult distinction to parse, as discerning whether an offer *substantially* exceeds marginal cost requires a highly fact-specific analysis. Further complicating this analysis is the Commission's

[6] *Application of Electric Reliability Council of Texas, Inc. for a Debt Obligation Order Pursuant to Chapter 39, Subchapter N of the Public Utility Regulatory Act*, Docket 52322, Direct Testimony of Kenan Ögelman at bates 30, 9:13 (July 16, 2021).

[7] PUC Subst. R. 25.504(d).

rule stating that pricing generation substantially above marginal cost may only be considered unlawful economic withholding when a generation resource also has market power, which itself may only occur when a generation entity controls more than 5% of the installed generation capacity in ERCOT (colloquially known as the "small fish swim free" rule).[8]

By requiring LSEs to prove, up to three years in advance, that they have procured sufficient generation or else face a significant penalty[9] paid to the generation resource, the proposal places a great deal of temptation for economic withholding, both for small fish as well as the larger gentailers that already control a significant amount of both the competitive retail and wholesale generation markets.

Third, the LSE Obligation proposal does not seem to meaningfully address a stated goal of the Commission for this market redesign – incenting the construction of new, dispatchable generation. The Commission has multiple paths toward addressing this issue – increasing demand response and energy efficiency measures reduces load requirements, while incenting the construction of new generation, supporting and expanding existing generation, improving weatherization, and assuring reliable natural gas delivery all increase generation capability. The LSE Obligation proposal is premised on the idea that ERCOT would be able to procure sufficient existing generation to meet demand requirements. This serves a valuable purpose if the underlying issue is connecting willing buyers and sellers who otherwise cannot find each other. At this time, TPPA has not seen any evidence of willing buyers that are unable to engage with willing sellers (or vice versa) occurring on a large enough scale in ERCOT to necessitate this significant policy change.

However, if a true deficit exists such that an LSE cannot obtain generation at any cost due to a lack of available capacity, the LSE Obligation proposal would only serve to punish LSEs that, for no fault of their own, could not procure sufficient generation capacity to cover peak demand, without any benefit to overall reliability. In fact, if there is anticipation that there is a true deficit, the incentives to withhold will be even greater because the Commission would heavily penalize LSEs that hedge last, forcing higher prices in bilateral agreements as LSEs bid against each other

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[8] PUC Subst. R. 25.504(c). Under the small fish rule, no generation entity with less than 5% of installed capacity can be deemed to exert market power. At present, only three generation entities each control 5% or more of the total installed capacity.

[9] The original proposal suggests two to three times the cost of new entry. *See* LSE Obligation Proposal at 28.

for limited and diminishing generation capacity. As such, the LSE Obligation proposal does not seem, at this stage, to provide a significant benefit to overall grid reliability.

At this time, TPPA is still evaluating the proposal, but we believe that the proposal will not be sufficiently detailed to be ready for the market design plan that the Commission has committed to publish by the end of the year.

IV. Cost to Customers and Market

TPPA believes that the Commission should proceed on any of major market design proposal, including the LSE Obligation, only after considering a detailed breakdown of what that proposal will cost to customers and the market as a whole. While TPPA is unable to provide these calculations at this early stage, TPPA will monitor this project for others' projections, and we encourage the Commission to take those cost estimates seriously.

TPPA also recommends that the Commission proactively seek out reliability risk reduction data to ensure that the market design proposals it selects for implementation will have a real and measurable effect on overall grid reliability. Comparing cost to consumers and the market to reliability risk reductions will better equip the Commission to determine what ideas work and what ideas should be put aside.

In addition, TPPA understands that the Commission has tasked the Brattle Group with developing a public report on various market design concepts. In the lead-up to this report, TPPA would appreciate additional information about the projections that Brattle will be using to reach the conclusions of this report. TPPA believes simply backcasting the effects of market design will be insufficient – the ERCOT generation mix is constantly in flux, and it will look dramatically different in as little as two years. It is critical to understand how Brattle projects this mix to change, as well as other details about its projections (e.g., gas price outlook and market participant consolidation). TPPA recommends that the Commission ask Brattle to publicly provide more information about the process and scope of its evaluation, similar to the Commission's request of ERCOT regarding its weather study for weatherization rule purposes.[10]

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[10] *See Project for ERCOT Weather Study to Implement Reliability Standards under PURA 35.0021 and 38.075*, Project 52691 (ongoing).

Further, TPPA would ask the Commission to allow sufficient opportunity for robust and detailed stakeholder comment on both Brattle's report and any draft market design plans by the Commission before the agency moves forward with implementation.

V. Conclusion

TPPA appreciates the opportunity to submit these comments. As always, TPPA looks forward to working with the Commission, its staff, and the stakeholders on these important questions and this broader discussion in the coming months.

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Respectfully,

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EXECUTIVE SUMMARY OF TPPA'S RESPONSE TO STAFF'S QUESTIONS FOR COMMENT

- Municipally-owned utilities have and will continue to serve a key role in the ERCOT wholesale market.
    - In response to Winter Storm Uri, MOUs have worked to weatherize necessary facilities, upgrade communication and operational tools, and identify critical loads.
    - MOUs also maintain some of the highest credit ratings across the industry. As such, the Commission should carefully undergo its market redesign efforts, as any market redesign concepts that disproportionately affect MOUs may diminish or harm investment opportunities in ERCOT and hinder the construction of new dispatchable generation.
- TPPA strongly urges the Commission to evaluate any market design proposal with two elements at the forefront of its analysis: a) the cost to consumers and the market and b) the reliability risk reduction.
- Should the Commission decide to lengthen the Operating Reserve Demand Curve, TPPA would recommend that the Commission implement four separate seasonal curves, perhaps mirroring the contract periods for Emergency Response Service, so as to more appropriately value reserves in differing seasons. TPPA does not take a position on whether the Commission should also reinstate six time blocks with ORDC, nor does it take a position on whether the Value of Lost Load should be decoupled from the high system-wide offer cap.
- TPPA does not believe that the Load Serving Obligation proposal will be able to be sufficiently detailed to be included in the Commission's December market redesign plan. If the Commission decides to move forward with this proposal, TPPA has concerns regarding how ERCOT would implement the proposal, the possibility for market manipulation, and whether the proposal would meaningfully increase overall grid reliability.
- TPPA requests that the Commission instruct the Brattle Group to publicly provide more information about how it will be evaluating various market design proposals in advance of the public release of its report, similar to the Commission's instruction to ERCOT regarding its weather study earlier this year.
- TPPA also requests that the Commission allow for sufficient opportunity for robust and detailed stakeholder comment on both Brattle's report and any draft market design plans.